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October 19, 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Presentation in
MM Docket Nos. 92-266 and 93-215

Dear Mr. Caton:

Pursuant to the Commission's ex parte rule, 47 C.F.R. § 1.1206, an original and one copy of this letter are being filed in MM Docket Nos. 93-215 and 92-266 as notification that representatives of the National Association of Telecommunication Officers and Advisors ("NATOA") had a conference call on Tuesday, October 18, 1994, with Patrick Donovan of the Cable Services Bureau, to discuss the proposals under consideration regarding the cable rate regulation going forward rules.

On behalf of NATOA, the following representatives participated in the call: Ms. Susan Littlefield, President of NATOA and Cable Regulatory Administrator for the City of St. Louis, MO; Ms. Eileen Huggard, a member of the NATOA Board of Directors and the Assistant Commissioner, Cable Television Franchises and Policy, Department of Information Technology and Telecommunications, the City of New York; Mr. David Hankin, Assistant General Manager, Department of Telecommunications, City of Los Angeles, CA; Tim Lay, Esq., an attorney representing a number of local governments in rate regulation proceedings; John W. Pestle, Esq., an attorney representing a number of Michigan communities; and Stephanie Phillipps and myself, attorneys with the law firm of Arnold & Porter and

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NATOA's special outside counsel on federal telecommunications matters.

Mr. Donovan gave NATOA representatives a general description of the proposal under which cable operators could add a new product tier at market prices and add new channels to regulated tiers at a flat fee to be added to the basic service rate, subject to a price cap. NATOA representatives raised a number of questions and concerns regarding the proposal including how operators' revenues received from new programmers (e.g., revenues from home shopping channels) would be taken into account in determining the appropriate price cap; how the new proposal would be implemented; how the new proposal would impact on the Form 1200s and Form 1210s; and how the new proposal relates to à la carte issues and decisions pending at the FCC. NATOA representatives expressed their concern that the effect of the proposal would be to increase rates for basic service programming that consumers may not want and wipe out any refunds and rate reductions that consumers may have received as a result of the rate regulation process. NATOA questioned the need for the FCC to act now and proposed that the FCC examine more closely evidence submitted by the cable industry and cable programmers that purports to show that new programs will not be distributed on cable systems unless the FCC grants operators some form of relief from rate regulation. NATOA pointed out that the evidence cited by the operators and programmers does not comport with other evidence showing that the problems new programmers have in getting their programs distributed on cable systems is the result of the monopoly power of cable operators, limited system capacity, operators' uncertainty regarding the new rate regulations, and other economic and practical reasons.

NATOA recommended that the Commission take steps to ensure that the rules do not result in unreasonable rates by, among other things, requiring that cable operators offset the price cap formula rate by the revenues cable operators receive from new programmers, and by limiting rate increases related to increases in costs for such new programming services. Moreover, NATOA recommended that the Commission limit the "incubation" period during which cable operators may carry new services on existing programming service tiers at rates pursuant to the price cap formula.

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NATOA also emphasized that local governments have exhausted their rate regulation budgets and are straining to cope with the revised rules that became effective on May 15, 1994. Additional new rules would further burden local governments' already limited resources. Such added burdens may lead some local governments to decertify. NATOA suggested that the FCC take steps to ensure that such regulations do not burden franchising authorities, such as not applying the proposed rules to the basic service tier.

Please contact me if you have any questions regarding this matter.

Respectfully submitted,


William E. Cook, Jr.

cc: Patrick Donovan, Esq.,
Chief of Policy and Rules Division,
Cable Services Bureau